

## **SUPPORTING STATEMENT**

U.S. Income Tax Return for Estates and Trusts  
Form 1041, Schedules, and PL 115-97, section 14103  
OMB Control Number 1545-0092

### **1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Form 1041, U.S. Income Tax Return for Estates and Trusts, is used by the fiduciary of a domestic decedent's estate, trust, or bankruptcy estate to report (26 USC 6012 (b)):

- \* Income, deductions, gains, losses, etc. of the estate or trust;
- \* Income that is either accumulated or held for future distribution or distributed currently to the beneficiaries;
- \* Income tax liability of the estate or trust; and
- \* Employment tax on wages paid to household employees.

The following code sections impose additional burden:

26 USC 55(a) imposes an alternative minimum tax.

26 USC 59(c) requires estates and trusts to compute their alternative minimum taxable income by applying Part I of Subchapter J with the adjustments provided in Part IV of Subchapter A.

26 USC 641 imposes an income tax on the taxable income of the decedent's estate or trust that is not distributed during the tax year that it is received.

26 USC 652 requires the beneficiaries of a simple trust to include in their gross income the amount of the income required to be distributed currently.

26 USC 662 requires beneficiaries of estates and trusts to include in their income the sum of: (1) the income required to be distributed currently; and (2) all other amounts properly paid, credited, or required to be distributed.

26 USC 643(g) allows a trustee to make an election to treat any payment of estimated tax paid by the trust, or by an estate in the final year, as a payment made by the beneficiary.

26 USC 666 requires a beneficiary of a complex trust to include in income an accumulation distribution from the complex trust.

26 USC 671-677 and 26 USC 679 treat grantors as owners of the trust when the grantor retains certain powers over the trust. The grantors are required to include in their income all or part of the income that otherwise would be taxable to the trust.

26 USC 6654(1) requires estates, with certain exceptions, and trusts to make estimated tax payments.

The following forms and worksheets were developed to assist taxpayers in the reporting of this information:

The fiduciary of a domestic decedent's estate, trust, or bankruptcy estate uses Form 1041 to report: income, deductions, gains, losses, etc. of the estate or trust; the income that is either accumulated or held for future distribution or distributed currently to the beneficiaries; any income tax liability of the estate or trust; and employment taxes on wages paid to household employees.

Schedule D is used for reporting details of gain or loss from sales or exchanges of capital assets and to assist in the computation of alternative tax for certain cases in which Schedule D (Form 1041) was completed. This form is filed with Form 1041.

Schedule D Tax Worksheet, if applicable, is used to figure the estate's or trust's tax if the estate or trust files Schedule D (Form 1041) and has: A net capital gain and any taxable income, or Qualified dividends on line 2b(2) of Form 1041 and any taxable income.

Schedule G, Tax Computation, is used to figure the tax using the Tax Rate Schedule in the instructions. The tax amount is entered on line 1a.

Schedule I (Form 1041) is used to compute the DNI and income distribution deduction on a minimum tax basis.

Schedule J (Form 1041) is used to report an accumulation distribution for a domestic complex trust that was: Previously treated at any time as a foreign trust (unless an exception is provided in future regulations), or Created before March 1, 1984, unless that trust would not be aggregated with other trusts under the rules of section 643(f) if that section applied to the trust.

The fiduciary (or one of the joint fiduciaries) must file Schedule K-1. A copy of each beneficiary's Schedule K-1 is attached to the Form 1041 filed with the IRS, and each beneficiary is given a copy of his or her respective Schedule K-1. One copy of each Schedule K-1 must be retained for the fiduciary's records.

The Qualified Dividends Tax Worksheet is used if the taxpayer does not have to complete Part I or Part II of Schedule D and the estate or trust has an amount entered on line 2b(2) of Form 1041 and any taxable income (line 22), then figure the estate's or trust's tax using the worksheet and entering the tax on line 1a.

Qualified Mortgage Insurance Premiums Deduction Worksheet: the estate or trust cannot deduct mortgage insurance premiums if the estate's or trust's AGI is more than \$109,000. If the estate's or trust's AGI is more than \$100,000, its deduction is limited and the worksheet must be used to figure the deduction.

Unused Capital Loss Carryover Upon termination of the trust or decedent's estate, the beneficiary succeeding to the property is allowed as a deduction any unused capital loss carryover under section 1212. If the estate or trust incurs capital losses in the final year, the Capital Loss Carryover Worksheet is used in the Instructions for Schedule D (Form 1041) to figure the amount of capital loss carryover to be allocated to the beneficiary.

Form 1041-V is a statement used to send a check or money order for any balance due.

PL 115-97, section 14103 has a retroactive effective date of 2017. In order for taxpayers to fulfill their filing obligations and report the correct amount of tax under Section 14103 the IRS developed FAQ's to alert taxpayers how and where to report this income on their 2017 return. This is seen as a priority for the Internal Revenue Service as this is a high revenue raiser. A critical part of this effort includes alerting taxpayers of their filing obligations and educating them on how and where this would be reported.

A person that is required to include amounts in income under section 965 in its 2017 taxable year, whether because it is itself a United States shareholder of a deferred foreign income corporation or because it is a direct or indirect partner in a domestic partnership or a shareholder in an S corporation that is a United States shareholder of a deferred foreign income corporation, is required to report amounts under section 965 on a 2017 return. Such amounts should be reported on the return as reflected in the table included in Appendix: Q&A1 of the FAQ.

## **2. USE OF DATA**

Form 1041, Schedule A of Form 1041, Schedule B of Form 1041, Schedule D (Form 1041), and Schedule G (Form 1041) are used by IRS to verify that the income tax reported is correct. Schedule I of Form 1041 is used by the IRS to verify the correctness of adjustments and items of tax preference in computing the fiduciary's alternative minimum tax; and the amount of distributable net income computed on a minimum tax basis that is distributed to the beneficiaries. Schedule J (Form 1041) and Schedule K-1 (Form 1041) are used by IRS to verify that the beneficiaries included the correct amounts on their returns. The 1041-V allows the IRS to process the payment more accurately and efficiently. The IRS will use the data required by PL 115-97, section 14103 to ensure that the correct amount of tax is paid.

## **3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

We are currently offering electronic filing on Form 1041.

## **4. EFFORTS TO IDENTIFY DUPLICATION**

The information obtained through this collection is unique and is not already available or use or adaption from another source.

## **5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES**

There is no burden on small businesses or other small entities due to the inapplicability of the authorizing statute to this type of entity.

## **6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES**

Consequences of less frequent collection on federal programs or policy activities could consist of a decrease in the amount of taxes collected by the Service, inaccurate and untimely filing of

tax returns, and an increase in tax violations.

**7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

**8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 1041.

In response to the *Federal Register* notice dated October 13, 2016 (81 FR 70742), we received no comments during the comment period regarding Form 1041.

**9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

No payment or gift has been provided to any respondents.

**10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

**11. JUSTIFICATION OF SENSITIVE QUESTIONS**

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the "Business Master file (BMF)" and a Privacy Act System of Records notice (SORN) has been issued for these systems under IRS 22.062 - Electronic Filing Records; IRS 24.030 - Customer Account Data Engine (CADE) Individual Master File; IRS 24.046 - CADE Business Master File (BMF); IRS 34.037 - IRS Audit Trail and Security Records System. The Internal Revenue Service PIA's can be found at <https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

The Privacy Act statement associated with this attachment is listed in the Federal tax return instructions.

**12. ESTIMATED BURDEN OF INFORMATION COLLECTION**

The table below shows the detailed estimates of the annual burdens:

	# Respondents	# Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Burden
1041	3,017,000	1	3,017,000	74.77*	225,581,090
1041 (QMI) WK	123	1	123	1.94	239
1041 EX L-20 WK	820	1	820	1.70	1,394
Sch G-L 1a	24,600	1	24,600	4.37	107,502
Schedule D	1,148,000	1	1,148,000	23.48	26,955,040
Sch DL-15d WK	164,000	1	164,000	4.78	783,920
Sch D L-15e WK	30,750	1	30,750	1.90	58,425
Sch D CAP LOSS	135,300	1	135,300	3.40	460,020
Sch D Tax WK	71,750	1	71,750	8.75	627,813
Schedule I	1,119,300	1	1,119,300	26.92	30,131,556
Schedule J	820	1	8201	5.34	12,579
Schedule K-1	2,896,240	1	2,896,240	7.76	22,474,822
1041-V	820,000	1	820,000	.72	590,400
PL 115-97, section 14103	5,000	1	5,000	12	60,000
	<b>9,433,703</b>		<b>9,433,703</b>		<b>307,844,800</b>

Note\* The agency recognizes that the instructions for Form 1041 show different times. The times reflected above are correct. The instructions will be updated during the next print cycle (2017).

The following regulations impose no additional burden. Please continue to assign OMB number 1545-0092 to these regulations.

- |                     |                   |
|---------------------|-------------------|
| 1.642(c)-2          | 1.642(g)-1        |
| 1.642(l)-1(c)       | 1.663(b)-2(a)     |
| 1.47-5(a)           | 1.671-4(a)        |
| 1.642(l)-1(d)       | 1.671-4(b)(2)(iv) |
| 1.666(d)-1A(a)      | 1.6012-3(a)       |
| 1.641(b)-2(a)       | 1.6012-3(b)       |
| 1.642(c)-1(b)(3)(4) | 1.6012-3(c)       |
| 1.642(c)-6(c)(4)    | 20.2055-2(h)      |
| 301.7207-1          |                   |

**13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

**14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

After consultation with various functions within the Service, we have determined that the cost of developing, printing, processing, distribution, and overhead for the form is \$5,710,689.

**15. REASONS FOR CHANGE IN BURDEN**

PL 115-97, section 14103 has a retroactive effective date of 2017. This section is an essential part of an administrative priority to collect deferred foreign income from US and foreign partnerships and corporations. Due to a lack of resources, the IRS must inform taxpayers how to calculate and report the deferred foreign income on their 2017 returns without disrupting information technology programs. As a result, FAQs were developed to alert taxpayers how and where to report this income on their 2017 return. This is seen as a priority for the Internal Revenue Service as this is a high revenue raiser. A critical part of this effort includes alerting taxpayers of their filing obligations and educating them on how and where this would be reported. This change will affect approximately 5,000 Form 1041 filers and will take an estimated 12 hours to comply, resulting in an overall burden increase of 60,000 hours.

**16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION**

There are no plans for tabulation, statistical analysis, and publication.

**17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE**

The IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions to the certification statement.

**Note:** The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be

retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.